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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/204,102	12/01/1998	HENRY H. HOUE	NBX-007-6611	5040

23872 7590 06/16/2003

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SCARBOROUGH, NY 10510

EXAMINER
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HARPER, KEVIN C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 06/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/204,102

Applicant(s)

HOUH ET AL.

Examiner

Kevin C. Harper

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,15,17-23,25-27,29-31 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,17-23,25-27,29 and 34-36 is/are allowed.
- 6) ☒ Claim(s) 1 and 31 is/are rejected.
- 7) ☒ Claim(s) 3-13 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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***Response to Arguments***

1. The declaration filed on April 7, 2003, under 37 CFR 1.131 has been considered but is ineffective to overcome the Ostman et al. reference. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Ostman et al. reference, December 19, 1997 (based on provisional application No. 60/071,063). However, Applicant has demonstrated a concept of invention on October 9, 1998 and diligence to the filing date of the application (MPEP 2138.06).

***Drawings***

2. The corrected or substitute drawings were received on April 7, 2003. These drawings are approved.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Ostman et al. (US 6,483,838).

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3. Regarding claims 1 and 31, Ostman discloses a method of forwarding packets to a network (Figure 12 and 14F) comprising the steps of providing a packet forwarding system with a memory (Figure 12, FIFO), inherently receiving an analog signal and generating local audio packets (col. 41, lines 20-23) and receiving packets at the packet forwarding system including local audio packets (col. 41, lines 20-24) and storing the packets in the memory of the packet forwarding system (Figure 12). The method further comprises attempting to forward packets stored in memory to the network (Figure 14F, step 1), establishing and monitoring a time limit to forward packets stored in the memory to the network, where the time limit is linked to the type of data included in the packet (col. 41, lines 19-26), and canceling attempts to forward the packet stored in memory when the elapsed period of time exceeds the time limit (Figure 14F, steps 8-9).

***Allowable Subject Matter***

4. Claims 3-13 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 15, 17-23, 27, 29 and 34-36 are allowed.

6. Claims 25 and 26 would be allowable if made dependent on an allowable independent claim.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at 703-308-5463. The fax number for Technology Center (TC) 2600 is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office for TC 2600 at 703-306-0377.

Kevin C. Harper



June 6, 2003



DANG TON  
PRIMARY EXAMINER